

**e. [§102.50] Out-of-State Placements**

If the court places the child with an out-of-state noncustodial parent and retains jurisdiction or maintains dependency in order to provide services to or to impose conditions on the noncustodial out-of-state parent, the [Interstate Compact on Placement of Children \(ICPC\)](#) must be applied, except when the “placement” is for a short period such as a school vacation or a period that is less than 30 days. [Cal Rules of Ct 1428\(b\)\(1\)](#). See [Fam C §§7900–7912](#) and [Cal Rules of Ct 1428](#) generally for procedures to apply when placing the child out of state under the ICPC. An ICPC evaluation that found an out-of-state parent’s home unsuitable for placement does not preclude the court from permitting the child to visit that home. *In re Emmanuel R.* (2001) 94 CA4th 452, 463, 114 CR2d 320.

Two cases hold that the ICPC applies only to interstate foster care placements or to placements preliminary to adoption, not to placements with a noncustodial parent. *Tara S. v Superior Court* (1993) 13 CA4th 1834, 1837–1838, 17 CR2d 315; *In re Johnny S.* (1995) 40 CA4th 969, 977, 47 CR2d 94. However, the continuing viability of these cases is unclear, given the promulgation of [Cal Rules of Ct 1428](#), which was adopted as a model for other ICPC states and was designed to clarify any confusion about when the compact applies.

- **JUDICIAL TIP:** If a child is with a parent in another state, and dependency in California is continued, the compact provisions must be observed. The court must maintain supervision over the dependent child who resides in another state.

On the issue of applicability of the ICPC to placement with an out-of-state, noncustodial parent, a joint committee, with representation from the National Council of Juvenile and Family Court Judges, the National Association of Public Child Welfare Administrators, and the ICPC Administrators noted (ICPC Administrators’ Memorandum, *Joint Committee’s Recommendations to Improve the Placement of ICPC Children*, p 8 (May 8, 1996)):

Obviously, the standing of a non-custodial parent to have custody of his/her own child would appear on the surface to be absolute. However, there are circumstances in which a judge may want to have a home study for a non-custodial parent. The need for a home study could include situations where the non-custodial parent has never had contact with the child, or has had such infrequent contact as to be considered a stranger to the child. Other situations could include allegations of a history of alcohol and/or drug abuse, domestic violence or criminal history. The subject of the inviolability of a parent to care for his/her child is highly controversial. This committee believes that the court is ultimately responsible for determining if the child should be placed with the non-custodial parent and the necessity for a home study prior to any such placement.

For further discussion of the ICPC, see Seiser & Kumli, *California Juvenile Courts: Practice and Procedure* §2.128 (Matthew Bender 2003).